



[6450-01-P]

DEPARTMENT OF ENERGY

Proposed Distribution of Residual Citronelle Settlement Agreement Funds

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for the disbursement of residual funds (totaling approximately \$59,000) remaining in various Citronelle Settlement Agreement escrow accounts to the parties to the Agreement.

DATES: Comments are due by **INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.**

ADDRESSES: Interested persons are encouraged to submit written comments electronically to: Kristin L. Martin, Attorney-Advisor, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585-0107, (202) 287-1550, Email: kristin.martin@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Kristin L. Martin, Attorney-Advisor, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585-0107, (202) 287-1550, Email: kristin.martin@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

The Cost of Living Council, a predecessor agency of the Department of Energy, acting pursuant to the Economic Stabilization Act of 1970, Public Law No. 91-39, 84 Stat. 796, 799, on August 22, 1973, issued a system of price controls on the first sale of all domestic production of crude oil. Eventually, regulations were promulgated controlling the allocation and prices of many refined petroleum products in addition to crude oil and providing for enforcement of these regulations. *See* 10 CFR part 210 *et seq.*; *see also* Emergency Petroleum Allocation Act of 1973, Public Law No. 93-159, Exec. Order 11,748, 38 FR 33577 (December 6, 1973) (EPAA); Economic Stabilization Act of 1970, as amended, Public Law No. 92-210, 85 Stat. 743; Public Law No. 93-28, 87 Stat. 27, Exec. Order 11,748, 38 FR 33575 (December 4, 1973) (ESA); Cost of Living Council Order No. 47, 39 FR 24 (January 2, 1974).

The Citronelle Settlement Agreement funds resulted from funds collected by the Department of Energy (DOE) in connection with the approval of exception relief from the price control regulations in effect for the 341 Tract Unit of Citronelle Field (Unit) by the DOE Office of Hearings and Appeals (OHA). *The 341 Tract Unit of the Citronelle Field*, 10 DOE ¶ 81, 207 (1983).

The Citronelle exception relief spawned years of administrative and judicial litigation, including litigation over the final terms and conditions of the relief, OHA's authority to grant the relief and the evidentiary basis for its decision, and the possible revision or termination of the relief. Ultimately, in December 1991, OHA issued a decision terminating the exception relief and requiring the transfer of the remaining Citronelle exception relief funds to an escrow account in the United States Treasury under the supervision of the DOE Controller. *The 341 Tract Unit of the Citronelle Field*, 21 DOE ¶ 81,009 (1991). In April 1992, OHA issued a

decision addressing certain claims to the Citronelle escrow account funds, establishing deadlines and procedures governing claims to the funds, and scheduling an evidentiary proceeding. *The 341 Tract Unit of the Citronelle Field*, 22 DOE ¶ 85,069 (1992). In May 1994, OHA issued a Decision and Order setting forth its determination of the percentage of the funds that should be allocated to various entities. *The 341 Tract Unit of the Citronelle Field*, 24 DOE ¶ 81,035 (1994).

Those actions led to further litigation. The Unit appealed OHA's termination of exception relief decision to the Federal Energy Regulatory Commission (FERC), which affirmed OHA's decision. The Unit then sought judicial review in *R.H. Stechman, et al. v. Department of Energy*, No. 94-0887-A-M (S.D. Ala. 1994).

In order to avoid further extended judicial proceedings over the disposition of the Citronelle escrow account, DOE reached a settlement (Settlement Agreement) resolving, first, the claims to the DOE/Citronelle escrow fund reserved for various Refiner-Litigants and, second, the Unit's claims. The settlement agreement resolving the claims of the Refiner-Litigants was approved by the United States District Court for the Southern District of Texas on December 6, 1995. *See* 61 FR 48946, 48947 (Sept. 17, 1996).

The Settlement Agreement had five Parties and eight Eligible Entities or Groups. The Parties were: the United States, the Department of Energy, and specified Refiner-Litigants, Participant States, and Participant End-Users. The groups eligible to share in the remaining Citronelle funds were: the States, a group of End-Users, various Refiners (as defined in the Agreement), a group of Non-Litigant Refiners, the Consumers Power Company and various groups of Refiner Cooperatives, Cooperatives, and Airlines (as defined in the Agreement). The original amount governed by the Agreement was more than \$63,000,000.00. As of June 2018, approximately

\$36,200.00 remained in the Airlines escrow account and approximately \$23,000.00 remained in the Non-Litigant Refiners escrow account.

The Agreement stipulates that funds remaining in the Non-Litigant Refiners escrow account after proper distribution to that group must be transferred to the Refiner-Litigants. It also stipulates that funds remaining in the Airlines escrow account after proper distribution to that group are to be distributed in the following proportions:

- $\frac{2}{7}$ to the United States Treasury;
- $\frac{2}{7}$ to the States in proportions listed in Exhibit L of the Settlement Agreement and detailed below;
- $\frac{2}{7}$ to the Refiner-Litigants; and
- $\frac{1}{7}$ to the End-Users

The Agreement requires that the funds remaining in the End-Users account be transferred to the Subpart V Crude Oil Proceeding. However, the Subpart V Crude Oil Proceeding closed in 2016, with all remaining funds being distributed equally between the United States Treasury and the States (in pro-rata proportions defined by that refund proceeding). *See* 69 FR 29300 (May 21, 2004).

I. Proposed Procedure for Final Distribution of Citronelle Settlement Agreement Funds

The Citronelle Settlement Agreement funds will be distributed according to the following plan. Any funds remaining after the final distributions made in accordance with this plan will be considered unclaimed and will be transferred to the U.S. Treasury. Final distribution amounts will be calculated using the distribution percentages listed in an appendix to this Notice on the day the final Notice is published in the *Federal Register*.

The Agreement requires that the balance of the Non-Litigant Refiners account be distributed to the Refiner-Litigants through an escrow account established for that purpose for the initial distribution of Citronelle funds and managed by the law firm Miller & Chevalier. Miller & Chevalier no longer represents the Refiner-Litigants. Further, DOE has not been able to obtain documentation regarding how previous Citronelle distributions were made among the various firms comprising the Refiner-Litigants. In light of these facts and because the Citronelle distribution proportions agreed to by the Refiner-Litigants were not a part of the Agreement and thus not binding on DOE, we propose that the Refiner-Litigant portion of the funds be divided in equal proportions for the firms, or successor firms, listed in Exhibit A of the Agreement. A list of these firms is included as an appendix to this Notice. If a listed firm, or successor firm, does not submit the Required Information described below by the specified deadline, the funds will be considered unclaimed and will be transferred to the U.S. Treasury.

The Airlines Account

The Airlines account remaining funds will be split according to the percentages prescribed in the Settlement Agreement. Two sevenths of the Airlines account funds will be distributed to the United States Treasury. Two sevenths of the Airlines account funds will be distributed to the Refiner-Litigants Escrow Account. Two sevenths of the Airlines account funds will be distributed to the States in the proportions listed in Exhibit L of the Agreement.

One seventh of the Airlines account funds will be allocated to the End-Users account, which will be distributed in the same proportions as the residual Subpart V funds were distributed pursuant to our notice in 72 FR 46461, 46462 (August 14, 2007). The funds will be split equally, with half distributed to the United States Treasury and half distributed to the States.

The funds distributed to the States will be divided in the proportions used for the final distribution of the Subpart V funds, which are identical to those listed in Exhibit L of the Agreement. All funds distributed to the States are subject to the same restricted uses as those received by that State as a result of the settlement of the case known as *In Re: Stripper Well Litigation*, M.D.L. No. 378. A list of distribution percentages is included as an appendix to this Notice. If a State does not submit the Required Information described below by the specified deadline, the funds will be considered unclaimed and will be transferred to the U.S. Treasury.

Required Information

In order to receive its allotted funds, each Recipient, including State Recipients, must submit the following no later than the 90th calendar day following publication of the Final Plan in the *Federal Register*:

- Statement of Intent: The Statement should be brief and include the Recipient's name and the representative's authority to claim the Recipient's funds.
- Information Required by the Agreement: The Agreement requires that certain Releases of Claims be executed and submitted to DOE before Recipients may receive distributions.
 - If a Recipient has not ever submitted the relevant Release of Claims, it should contact DOE at the below address to obtain a copy of the release, and should submit the executed release with the other required information described in this section.
 - If a Recipient has previously submitted the relevant Release of Claims, it should submit to DOE a notarized statement certifying that it has submitted the release.

The notarized statement should be submitted with the other required information described in this section.

- **Electronic Funds Transfer (EFT) Information:** Each Recipient must submit all information necessary for DOE to make an electronic distribution of funds, including the name and contact information (phone number, email address, and mailing address) of a person designated to be the Point of Contact, banking information, and Tax ID number. DOE will not contact Recipients regarding problems, discrepancies, or other issues with EFT information. DOE will notify the designated Point of Contact when the EFT is initiated. If an EFT is unsuccessful and the Recipient does not contact DOE to correct the error by the 14th day following the EFT initiation, the amount not distributed will be considered unclaimed and will be transferred to the United States Treasury.

Submissions should in PDF format and must be submitted by email to

OHA.Filings@hq.doe.gov. The subject line should include “Citronelle Settlement Agreement Recipient Documents” and the name of the State or other Recipient. The Releases of Claims contained in the Agreement’s Exhibits may be obtained by contacting Kristin L. Martin, Attorney-Advisor, Office of Hearings and Appeals, by email at Kristin.Martin@hq.doe.gov, or by telephone at (202) 287-1550.

II. Appendix A—Proposed Distribution Percentages and List of Refiner-Litigants

Citronelle Airline Account Funds

Refiner-Litigants 28.57142857142860000%

- Each Refiner-Litigant Entity is entitled to 0.865800865800867% of the total Airline Account Funds.

United States Treasury 35.71428571428570000%

Alabama	0.54804016064259400%
Alaska	0.13818786523157600%
American Samoa	0.00636083244822057%
Arizona	0.36634454245826900%
Arkansas	0.45449277491405100%
California	3.26944016176838000%

Colorado	0.38401187480512000%
Connecticut	0.60652108584973400%
Delaware	0.16956338168467300%
District of Columbia	0.08531354824083700%
Florida	1.65010975432690000%
Georgia	0.79531816470797200%
Guam	0.05263184468083650%
Hawaii	0.24538846523323400%
Idaho	0.14657787754978300%
Illinois	1.64040323767528000%
Indiana	0.87972416423889800%
Iowa	0.46535022190036900%
Kansas	0.40036549196707900%
Kentucky	0.45780595111052400%
Louisiana	0.84950225360465700%
Maine	0.26254694847105300%
Maryland	0.63946084248035600%
Massachusetts	1.22259929840854000%
Michigan	1.21688372104464000%
Minnesota	0.61974582045967800%
Mississippi	0.48769574322855100%
Missouri	0.70516872255815100%
Montana	0.16165040119813900%
Nebraska	0.26336705431455200%
Nevada	0.14466342873599700%
New Hampshire	0.16645300019308600%
New Jersey	1.31838653652643000%
New Mexico	0.23395138247190300%
New York	2.76553651908726000%
No. Mariana Islands	0.00329014604847478%
North Carolina	0.80159665169915200%
North Dakota	0.13090382462201500%
Ohio	1.34202999992372000%
Oklahoma	0.44109500817469100%
Oregon	0.35401620870755400%
Pennsylvania	1.66287802161090000%
Puerto Rico	0.34023415151078600%
Rhode Island	0.14160268359603600%
South Carolina	0.42578568669101500%
South Dakota	0.12770074547322300%
Tennessee	0.57787034891897200%
Texas	2.63486674686911000%
Utah	0.21069728945457100%
Vermont	0.08547809926032230%
Virgin Islands	0.16520939843142600%
Virginia	0.91659346391607800%
Washington	0.54540262288818800%
West Virginia	0.21344547509163300%
Wisconsin	0.62838735451951800%
Wyoming	0.14563871266099600%
Total	35.71428571428570000%

Non-Litigant Refiners Account Funds

Refiner-Litigants 100%

- Each Refiner-Litigant Entity is entitled to 3.03% of the Non-Litigant Refiners Account Funds.

List of Refiner-Litigants

Amoco Oil Company
Ashland Oil, Inc.
Atlantic Richfield Company
Axel Johnson, Inc.
BHP Petroleum Americas Refining, Inc.
Castle Oil Corporation
Charter International Oil Company
Charter Oil Company
Chevron U.S.A., Inc.
Clark Oil & Refining Corporation
The Coastal Corporation
Commonwealth Oil Refining Company
Conoco Inc.
Crown Central Petroleum corp.
Diamond Shamrock Refining & Marketing Company
Exxon Corporation
Fina Oil and Chemical Company
Gulf States Oil & Refining Co.
Kerr-McGee Refining Corporation
La Gloria Oil and Gas Company
Marathon Oil Company
Mobil Oil Corporation
New England Petroleum Corporation
Oxy USA Inc.
Shell Oil Company
Sprague Energy Corporation
Tesoro Petroleum Corporation
Texaco Inc.
Texaco Refining & Marketing Inc.
Tosco Corporation

Total Petroleum Inc.
Union Pacific Resources Company
Wyatt Energy Inc.

Signed in Washington, DC on: August 27, 2018.,

Poli A. Marmolejos,
Director,
Office of Hearings and Appeals.

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